

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 2362 - SB 2542**

March 21, 2014

**SUMMARY OF BILL:** Authorizes either party in a criminal trial to request a judge, once jeopardy attaches, to submit to a drug test. The trial shall be continued until the drug test is completed.

A mistrial shall be declared if a judge refuses to take a drug test or the results are positive for an illegal drug.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$75,700/Recurring**

**Increase Local Expenditures – \$461,400/Recurring**

**Assumptions:**

- Under the proposed legislation, the drug test must be conducted in accordance with Tenn. Code Ann. Title 50, Chapter 9. According to the Administrative Office of the Courts (AOC), Aegis Sciences Corporation is the only laboratory certified by the Substance Abuse & Mental Health Services Administration. Aegis' prices for the available drug tests range from \$46.00 to \$58.00. The AOC assumes the \$58.00 test will be required for the proposed legislation.
- There is an average of 1,007 criminal trials per year in circuit/criminal courts for felony offenses. Because the issue of whether a judge was impaired or under the influence of drugs during trial is waived for purposes of appeal if neither party requests a judge to submit to a drug test, it is assumed that a party in 75 percent of the cases (755) will request the judge to submit to a drug test. The proposed legislation will increase state expenditures in the amount of \$43,790 (755 x \$58.00).
- The proposed legislation would also apply to bench trials in general sessions courts. The AOC assumes that a general sessions judge conducts two criminal bench trials each week, or 104 trials per year. There are 153 general sessions judges in Tennessee. It is assumed that a general session judge will be asked to submit to a drug test in 50 percent of general sessions bench trials (153 judges x 104 bench trials per year x .50 requests = 7,956). The proposed legislation would increase local expenditures in the amount of \$461,448 (7,956 cases x \$58.00).
- The proposed legislation would also increase expenditures in criminal trials where the jury is sequestered. It is assumed that an average of three juries each year are

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sequestered. It is assumed that a judge will be requested to submit to a drug in each of these cases.

- According to the AOC, the cost of sequestering a jury is approximately \$2,660 per day. It is assumed that one trial will result in a judge testing positive for a controlled substance, which will require a confirmation test. In such a case, a jury will be sequestered for an additional six days because of the delay of the drug test. In the other two trials, it is assumed that the judges' drug tests will be negative and will only delay the trial by three days for a total of six days (2 trials x 3 days delay). It is assumed that the proposed legislation will result in a total of 12 days delay which will require additional expenditures for sequestering juries.
- The proposed legislation will increase state expenditures in the amount of \$31,920 (\$2,660 x 12 days).
- The total increase in state expenditures is \$75,710 (\$43,790 + \$31,920).
- According to the district attorneys and public defenders, the proposed legislation will not significantly impact their caseloads. Any impact can be accommodated within existing resources.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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